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COMMITTEE AGAINST TORTURE

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SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 469th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 8 May 2001, at 3 p.m.

Chairman: Mr. BURNS

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.469/Add.1.

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4) (continued)

Second periodic report of the Czech Republic (continued) (CAT/C/38/Add.1)

1. At the invitation of the Chairman, the delegation of the Czech Republic took places at the Committee table.

2. Mr. SOMOL (Czech Republic) said his country was aware that dialogue would help to solve the numerous problems it faced. The Czech Republic accepted and would respond to outside criticism.

3. Racism and extremist movements had sprung up after the 1989 revolution, when a society unaccustomed to multiculturalism had suddenly been confronted with an influx of refugees and migrants. Educational programmes designed to combat racist thinking had been introduced in schools, the State administration, the army and the police force. The prosecution of racially motivated crimes was difficult, since it was often hard to prove that they had been prompted by racism and judges were sometimes unable to identify racial elements of behaviour. Admittedly, violent criminals received more lenient sentences in the Czech Republic than elsewhere. The police officer involved in the Lacko case had appealed against his sentence, which was under review.

4. The Roma, with a population of between 200,000 and 250,000, formed the smallest minority in the Czech Republic. Since all other minorities in the country shared the values of the majority population, problems arose only in respect of the Roma. The Czech Republic had decided to implement the recommendations of the Committee on the Elimination of Racial Discrimination (CERD), and the ministers concerned would report on that effort by the end of the current year. Cultural differences, social behaviours and the influence of the former communist regime hindered harmonious coexistence between the Roma and the majority population. Furthermore, the Roma suffered not only from housing problems and social exclusion but also from rising unemployment as they lost their traditional jobs to harder-working foreign immigrants.

5. Education of the Roma was the top priority of the Government's integration policy. Roma children received little schooling, as their parents set no store on education. Because the youngsters seldom attended primary school, their parents frequently asked that they should be placed in special secondary schools where the demands made on them were lower. To remedy that situation, 319 special classes had been set up to prepare Roma children for normal schooling and 197 Roma psychological assistants were working in the school system. Psychological tests for children had been altered to take account of cultural and social disparities, and the law had been amended to allow pupils leaving special schools to continue their education at secondary level.

6. A small percentage of the Roma living in the Czech Republic had started to emigrate to countries such as Canada and the United Kingdom, mainly for economic reasons. That trend had been offset by some positive developments, including the establishment of Roma businesses and the incipient participation of the Roma in the political life of the country.

7. The Government's long-term policy sought to integrate the Roma in Czech society by encouraging mutual respect for traditions, history and language. Measures adopted to achieve that goal included the appointment of Roma advisers to 73 local authorities, the launching of an anti-racist campaign, the creation of multicultural housing facilities and a museum of roma culture. An important step had been the signing of a memorandum on cooperation between the Government and representatives of the International Romani Union, which provided for the establishment of a post of adviser and coordinator for Roma affairs in the Czech Ministry of Foreign Affairs who would be responsible for implementation of the memorandum.

8. The enormous social changes which had occurred since 1989 had also had a downside in the form of extremist movements with foreign connections and neo-fascist sympathies. The police had not yet found an efficient method of dealing with skinheads, the group which committed the bulk of racially motivated crimes. Some 307 such crimes had been recorded in 2000; 148 of those cases had already been brought to court and the offenders sentenced. However, realizing that the relevant statutory provisions covering extremist activities needed to be applied with greater rigour, the Government had taken steps to ban or monitor the activities of far-right groups, and the Ministry of the Interior regularly reported on those efforts to the Government. Nevertheless, implementing the law effectively and coming to grips with extremist movements was a difficult, long-term task.

9. In the Czech Republic, victims of torture, cruel, degrading or inhuman treatment or punishment could obtain compensation under the Code of Criminal Procedure, the Code of Civil Procedure, Act No. 82/1998 and Act No. 209/1997. As part of an effort to redress injustices perpetrated in the past by the communist regime, compensation had been awarded to 208,000 former political prisoners.

10. Ms. BURČIKOVÁ (Czech Republic), replying to questions regarding the mistreatment of demonstrators during the meeting of the International Monetary Fund (IMF) in Prague in September 2000, explained that ill-treatment was a criminal offence under the Czech Criminal Code. Allegations of violent behaviour by the police were investigated by the Inspectorate of the Ministry of the Interior, which had looked into four cases arising from the Prague riots. Thus far only one police officer had been subjected to disciplinary measures as a result of those investigations.

11. Many reports of police violence had been submitted to the complaints department of the Police Presidium, which dealt with petty offences committed by the police. Admittedly, the outcome of its investigations was often unsatisfactory, and for that reason an external control mechanism was to be set up. In order to improve conditions in all kinds of detention facilities, including psychiatric hospitals, children's homes and old people's homes, the Government's Council for Human Rights was negotiating the establishment of an independent supervisory body.

12. The rights of detainees to consult a lawyer or a doctor and to inform a third person about their detention needed to be strengthened, because the Police Act guaranteed only the right to inform a third person. The Code of Criminal Procedure stipulated that a detainee could retain counsel only after an official charge had been made, but no legal right existed to do so earlier in proceedings. No legal provision whatsoever had been made for the right to consult a doctor, although in practice detainees were usually allowed to see a physician if they so wished. Unfortunately, the new Police Act had yet to come into force because the Minister of the Interior was not convinced of its necessity.

13. With regard to the overlapping of the powers of the Council for Human Rights and the Ombudsman, she said that Council, which supervised all human rights issues, had been established in 1998. Half its members were State officials and the other half were representatives of civil society and non-governmental organizations (NGOs). The Council had established its own advisory bodies called "expert sections", each of which monitored compliance with a specific United Nations human rights instrument. The sections were also composed of government officials and representatives of NGOs, all of whom were experts in the field covered by the instrument in question. The Council's specific duties included proposing legislative or other measures to enhance the protection of human rights. Such proposals were usually accepted by the Government.

14. The creation of the Office of the Ombudsman, established by law in 1999, had been another important step in the promotion of human rights. A former Minister of Justice had been appointed Ombudsman and he had taken office in January 2001. The Ombudsman's role was to monitor individual actions which might infringe human rights both in civil society and at all levels of the national administration. The Ombudsman was independent and responsible only to the Chamber of Deputies and, unless he resigned, could not be removed before the end of his term except when accused of a criminal offence and prosecution was approved by the Chamber of Deputies; if he no longer met the conditions necessary to be a member of the Senate; or if he assumed another office incompatible with that of Ombudsman. Adequate safeguards existed to ensure the Ombudsman's independence.

15. With regard to severe overcrowding in the prisons she said that the Ministry of Justice had taken measures to remedy the situation, including a meeting with the presidents of the regional courts which had led to a recommendation that judges should weigh carefully any decision to commit a person to pre-trial detention or prison. The Czech Government was committed to reducing the prison population, and overcrowding had dropped to 6 per cent overcapacity in 2000, as compared with 14 per cent overcapacity in 1997. It was also expected that a new law on probation and mediation in force since January 2001 would have a further positive effect.

16. In response to questions relating to article 3 of the Convention, she said that the Criminal Code forbade the expulsion of foreigners if there were reasonable grounds to suspect that they would be subject to torture in the receiving country. If such individuals were found guilty of a crime, any sentence imposed would be served in the Czech Republic. As a result of recommendations made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following a visit to the Czech Republic in 1997, measures had been taken to improve the situation of foreign detainees who, until 1997, had been

kept among the general prison population in overcrowded conditions, often without even the possibility of going outside. The 1999 Act on aliens provided for special detention facilities for foreigners and set out the conditions for their detention as well as the rights and duties of detainees and staff. Her Government remained aware of the need to further improve the everyday operations of the detention system for foreigners.

17. Replying to questions from Mr. El Masry, she said that the former system of civil inspections of prisons had not been replaced under the new prison legislation. External controls did, however, exist, and currently both State attorneys and the Ombudsman could deal with matters relating to the treatment of prisoners and their conditions of detention. The Council for Human Rights was also seeking to establish an independent control mechanism to monitor all detention facilities. With regard to visits to persons in pre-trial detention, a concern raised in the 1997 CPT report, she said that the law had been amended in 2000 to allow for more frequent and longer visits; in addition, whereas in the past those detainees who were considered most suspect or dangerous had been allowed visitors only with prior approval in writing from a State attorney or judge, the conditions of their detention were now defined at the outset of the detention period, and written approval was no longer necessary for each visit. Prisoner complaints were normally handled by a prison's complaint department, the prevention and control section of the General Directorate of the Prison Service or the prison authorities at the Ministry of Justice. However, as those bodies were not fully independent, State attorneys and the Ombudsman currently had the right to investigate violations of the law in prisons. She was not aware of any cases of prisoners having been warned by prison staff that if they complained and their complaint was found to be groundless, they could be prosecuted for false accusation. Complaints of coercion or excessive use of force by the police were dealt with by government officials within the Police Presidium, but the Ombudsman could also investigate complaints against the police.

18. Inter-prisoner violence and bullying were also concerns. Bullying was defined as physical or mental violence, degrading treatment or attempts to assert authority over others. Prisoners who were thought to be at risk of injury from other inmates could be isolated in special cells, and during physical examinations the doctors were expected to look for physical signs of violence. She had no statistics on inter-prisoner violence of a specifically sexual nature.

19. In 2000, there had been 5,604 men and 364 women in pre-trial detention and 14,966 men and 605 women in prison serving sentences. Statistics were also available on the number of foreign nationals in pre-trial detention and serving sentences, as well as on the number of young offenders aged 15 to 18 who were considered to have criminal capacity. However, no statistics were kept on the geographical origin or ethnic minority status of prisoners. Owing to a lack of staff there were male guards in female prisons, but body searches always had to be carried out by a guard of the same sex as the prisoner.

20. In response to another concern raised in the CPT report, she said that prisoners were no longer transferred to the police station for questioning; detectives now interviewed them in prison. Prisoners were transferred to the police station only when it was necessary to try and

reconstruct a crime. New training programmes had been established for police and prison guards, covering such topics as methods of handling situations without resorting to violence, the United Nations Code of Conduct for Law Enforcement Officers and major international instruments, including the Convention and its definition of torture.

21. Turning to the issue of pre-trial detention of women, in particular women with children, she referred to the case of a Romanian national who had been arrested for trafficking in women and placed in pre-trial detention when eight months pregnant. She had then given birth in prison and, as there were no facilities for children in the detention centre, the baby had been made a ward of the State, although the mother had been allowed daily visits. The mother had been released a month later, although the case against her was continuing. When sentencing individuals to pre-trail detention judges must take their health into account, although in the most serious cases individuals could be detained regardless of their health situation.

22. With regard to medical care for prisoners, she noted that every prison had a full-time doctor who could recommend the transfer of a prisoner to a hospital, if necessary. Outside the doctor's working hours, non-medical prison staff were authorized to call an ambulance so that detainees or prisoners could receive medical care, which was in conformity with the Code of Conduct for Law Enforcement Officers.

23. In response to a question about the submission of reports to United Nations treaty bodies, she said that since the creation of the Council for Human Rights in 1998, its secretariat had been responsible for preparing such reports, in consultation with NGOs and the administration. The report currently before the Committee might be considered to be unusually critical, but she considered that to be a positive sign.

24. Mr. SOMOL (Czech Republic), replying to questions from Mr. Mavrommatis, noted that the delay in the submission of the report had been partly due to the difficult process of transition to democracy, the number of reports to be prepared and the need to involve so many ministries and institutions. A special human rights department had not been created within the Ministry of Foreign Affairs until 1998, when the Council for Human Rights had also been created.

25. Turning to the issue of stateless persons created by the separation of the Czech Republic and Slovakia, he said that amendments to Act No. 194/1999, on citizenship, had changed the conditions for acquisition of Czech citizenship, thereby solving existing administrative problems. Currently, all former citizens of Czechoslovakia were entitled to become Czech citizens if they were resident in the Czech Republic.

26. With regard to the implementation of articles 4 and 5 of the Convention, he said that article 259 (a) of the Criminal Code dealt with the crime of torture and other inhuman and cruel treatment. However, article 158 of the Code also contained provisions on the crime of abuse of power by a public official, which was frequently cited in cases of misconduct by policemen and prison guards. However, he had no data on any such crimes, or on crimes relating to article 5 of the Convention committed in recent years.

27. Article 10 of the Constitution stated that international human rights treaties were self-executing and directly applicable by the courts, without the need for any specific

implementing legislation, as was required for other international treaties. Both the federal and local authorities were required to implement human rights treaties, and individuals could invoke them in legal proceedings before both ordinary courts and the Constitutional Court.

28. His Government understood article 2 of the Convention as applicable only to public officials or persons acting in an official capacity. Acts of torture and similar treatment by private individuals were punishable under the Criminal Code.

29. The independence of the judiciary was guaranteed by the Constitution, which prohibited any attempt to sway a judge, the forced dismissal or transfer of judges, and the performance by judges of other public functions. It also provided for their appointment by the President for terms with no time limits. Act No. 335/1991, on judges and courts, guaranteed judges protection from unjustified interference in their work, stipulated the material guarantees of their independence and regulated the conditions of their appointment and dismissal. A judge could be dismissed for a serious breach of duty by decision of a disciplinary court on the proposal of the Minister of Justice. Judges were barred by law from practising if they had intentionally committed a crime, if their legal functions were suspended or limited, or if they lost their citizenship.

30. Criminal behaviour by members of the police force was monitored carefully, and extensive reliable statistics were available. For instance, between 1993 and 1997 the number of complaints of police offences had risen by about 10 per cent, well-founded complaints had declined by 25 per cent, and complaints dealt with by other institutions had risen by 60 per cent, although the 1997 totals were well below those of the previous three years. The road police were the object of many of those complaints, the charges being negligence, disregard of rules, or misinterpretation of the law and rules of service. Junior police officers under the age of 30 were more likely to commit offences, generally when off duty. All cases had been dealt with through internal disciplinary procedures. The figures for actual crime committed by police officers were, of course, much lower.

31. Regarding the legal requirement that prisoners should be provided with paid employment while serving a sentence, the Prison Service considered it an important aspect of rehabilitation; unfortunately, few such jobs were available, and only about 45 per cent of prisoners were thus employed. The Government was trying to help by offering prisoners some public contracts.

32. Regarding the case of the journalist allegedly prosecuted under the Press Act, the journalist in question had been accused by the police of cooperating with the local mafia and had been charged with the crimes of false accusation and defamation as defined in the Criminal Code. He was currently being tried on those grounds.

33. Mr. MAVROMMATIS, observed that the delegation seemed to have a very clear understanding of the purposes of the dialogue with the Committee. Candid replies had been given regarding the Roma along with good explanations of a number of promising measures for dealing with what was not a short-term problem. The Committee had been told that the incidents of racism involved primarily skinheads, and that statelessness was often a factor. On the other hand, the approach taken to the excessive use of force by the police during the demonstrations against the IMF left something to be desired. In the future, such incidents should probably not

be investigated by the Ministry of the Interior but should be subject to external control through a judicial inquiry. Also, the document the delegation had said it would make available upon request should automatically have been made available to the Committee, and the Committee should be kept apprised of any further developments in the next report. His overall impression was that the Czech Republic was generally on the right track.

34. Mr. EL MASRY said that he would be interested in having fuller information on the Press Act, which had apparently been amended in 1999 to place greater restrictions on journalists.

35. The issue of racism seemed to bear some connection to education. It was unlikely that all the Roma children in special schools attended them by choice, and indeed there had been allegations that some were forced to do so. Moreover, the sheer numbers - 80 per cent - of Roma children in schools for the retarded would imply that the Government had a policy of sending them there.

36. He wished to know whether the Government accepted the recommendations made in the CPT report regarding the reading of their rights to suspects by the police.

37. Mr. SOMOL (Czech Republic) said that the education of Roma children was a very sensitive issue in the Czech Republic. It was hard to explain why the Roma were not interested in receiving an education in their own language, but it was a fact. On the other hand, it was really not the case that their attendance in special schools was the result of a deliberate policy; the problem was rather the reluctance of parents to transfer Roma children in special schools to regular schools, where the Government had reserved places for them. There was no intention on the part of the Government to segregate Roma children.

38. He assured the Committee that it would receive written replies to questions that had not been answered, and that his Government would take the Committee's recommendations very seriously and act to address the Committee's concerns.

39. The CHAIRMAN thanked the delegation for responding to the Committee's questions in such a focused manner.

40. The delegation of the Czech Republic withdrew.

ORGANIZATIONAL AND OTHER MATTERS (continued)

41. The CHAIRMAN said that document A/CONF.189/PC.2/17, containing an account of the Committee's contribution to the preparations for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, had just been issued in all languages. He recalled that the document's unavailability had been deplored by Ms. Gaer at a previous meeting.

The public part of the meeting rose at 4.45 p.m.